

Appl. No. : **10/643,380**
Filed : **August 19, 2003**

AMENDMENTS TO THE DRAWINGS

The drawings have been amended to include reference numbers that represent parts of the device of the invention.

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REMARKS

The Specification and Claim 1 have been amended to include the reference numbers from Figures 1-3 that represent parts of the device of the invention, thereby making explicit what was implicitly present in the Specification. No new matter has been introduced by these amendments. The following addresses the substance of the Office Action.

Drawings

The Examiner has objected to drawings for not including the reference numbers that represent various parts of the device. Applicant has submitted herewith the replacement drawings which now include such reference numbers.

Specification

The Examiner has objected to the Specification for not reciting reference numbers for various parts of the applicant invention. The Brief Description of the Drawings now include such reference numbers corresponding to the same numbers on the Replacement Drawings.

Claim objections

The Examiner has objected to Claims 1-8 for not reciting reference numbers for various parts of the applicant invention. Applicant has amended Claim 1 accordingly.

Novelty

The Examiner has rejected Claims 1-8 under 35 USC §102(b) as being allegedly anticipated by Hendrikx (EP 1 060 662).

To be anticipatory under 35 U.S.C. § 102, a reference must teach each and every element of the claimed invention. *See Hybritech Inc. v. Monoclonal Antibodies, Inc.*, 802 F.2d 1367, 1379 (Fed. Cir. 1986). "Invalidity for anticipation requires that all of the elements and limitations of the claim are found within a single prior art reference. ...There must be no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of the invention." *See Scripps Clinic & Research Foundation v. Genentech, Inc.*, 927 F.2d 1565 (Fed. Cir. 1991).

Hendrikx describes a different kind of a device directed to simultaneous sampling and marking of the ear where the marking and the sampling is performed simultaneously by the same one pin and one accommodating means. In the claimed device, there is one pin for piercing the ear to obtain a tissue sample into the specimen container, and the other pin for placing an ear mark on the ear. Therefore, Hendrikx does not teach all of the elements and limitations of the Claims 1-8.

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For all of the above reasons, Applicants respectfully request withdrawal of all rejections under 35 U.S.C. § 102, and allowance of the pending application.

CONCLUSION

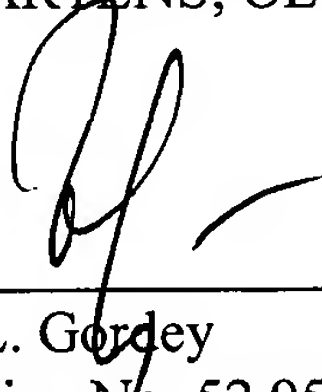
Applicants have endeavored to address all of the Examiner's concerns as expressed in the outstanding Office Action. Accordingly, amendments to the claims, the reasons therefor, and arguments in support of the patentability of the pending claim set are presented above. In light of the above amendments and remarks, reconsideration and withdrawal of the outstanding rejections is specifically requested. If the Examiner finds any remaining impediment to the prompt allowance of these claims that could be clarified with a telephone conference, the Examiner is respectfully requested to initiate the same with the undersigned.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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